

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Annie De Las Nueses	Team: Team # 8	CCRB Case #: 200206122	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/14/2002 8:30 PM	Location of Incident: § 87(2)(b)	Precinct: 47	18 Mo. SOL 3/14/2004	EO SOL 3/14/2004	
Date/Time CV Reported Sat, 09/14/2002 4:47 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 09/14/2002 4:47 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. LT James Osullivan	00000	896887	47 PCT
2. SGT Kevin Campbell	00130	889689	Dep. Comm of Ops.
3. LT Paul Deentremont	00000	892944	47 PCT
4. An Officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Michael Fitzpatrick	03716	885633	47 PCT
2. DT3 Miguel Soto	01616	899863	47 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT James Osullivan	Abuse: LT James Osullivan authorized the entry of § 87(2)(b) Bronx, New York.	§ 87(2)(b)
B.LT Paul Deentremont	Abuse: LT Paul Deentremont authorized the entry of § 87(2)(b) Bronx, New York.	§ 87(2)(b)
C.SGT Kevin Campbell	Abuse: SGT Kevin Campbell searched § 87(2)(b) Bronx, New York.	§ 87(2)(b)
D. An Officer	Abuse: An Officer searched § 87(2)(b) s property.	§ 87(2)(b)

Synopsis

§ 87(2)(b) alleged that on the date of incident five officers from the 47th Precinct, LT Osullivan, LT Deentremont, SGT Campbell, DT Soto and SGT Fitzpatrick entered her home (allegation A) and refused to leave when she asked them to. She also claimed that SGT Campbell conducted an unauthorized search of the hallway and bedrooms located in the rear of the apartment (allegation B) and that upon finding several of her pocketbooks on the living room floor, an officer searched through one of the bags without her permission. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Summary of Complaint

On September 14, 2002 § 87(2)(b) a Black, § 87(2)(b) -old § 87(2)(b) filled out a complaint report at the 47th precinct (enc.7a). She stated that several supervisors visited her home regarding § 87(2)(b). Upon opening the door, two officers proceeded to the back of her apartment while three officers went into the living room. § 87(2)(b) added that the officers looked through her things without a warrant.

§ 87(2)(b) was interviewed at the CCRB on October 2, 2002 (enc.9a). She testified that on September 14, 2002 she had been sleeping with her son when she heard knocking on the apartment door. Once she opened the door, she encountered five plainclothed officers standing in the hallway. They displayed their badges, identified themselves and stated that they wanted to discuss § 87(2)(b) and had a couple of questions to ask her. § 87(2)(b) agreed and led the officers into the living room. The officers asked her if anyone else was present in the apartment, and § 87(2)(b) explained that she was alone with her son. She claims that at that moment, two officers walked down the hall and made a visual inspection of the rear bedrooms, while three remained in the living room. § 87(2)(b) quickly followed the officers that walked towards the bedrooms and asked them for a search warrant. She was under the impression that they going to “talk” in the living room and did not expect the officers to inspect the rear bedrooms. After she demanded to know why they were looking in the bedrooms, one of the officers stated that they were only conducting a check to make sure the house was safe for their own protection. § 87(2)(b) then reentered the living room and observed officers looking around several of her purses, which were on the floor and shining their flashlights on her stuffed animals, clothes and bags. Feeling outraged at their actions, § 87(2)(b) turned to an officer and asked about their presence in her apartment and the correlation to her boyfriend, § 87(2)(b). According to § 87(2)(b) two officers went on to explain that her boyfriend, § 87(2)(b) had been arrested for robbery and that they had reason to believe there was stolen property in her apartment. They questioned her about the pocketbooks and how she had obtained them. Though § 87(2)(b) told the officers that the all the bags belonged to her, they continued questioning her and § 87(2)(b) requested that they all leave her apartment. A few moments later, § 87(2)(b) s siblings, § 87(2)(b) and § 87(2)(b) arrived at the apartment. They too began demanding the officers leave their home. § 87(2)(b) recalled that one of the officers seemed to be on the phone and was trying to obtain a search warrant. Ultimately, they were not successful and § 87(2)(b) asked the officers to leave her apartment several more times before making them aware that she intended to go to the precinct to file a complaint. She then obtained the names of all of the officers that were present (LT. Osullivan, LT. Deentremont, SGT Campbell, DT Soto and SGT Fitzpatrick) in the apartment and then walked over to the 47th precinct to file a civilian complaint report. While at the precinct § 87(2)(b) was allowed to visit with § 87(2)(b) as she filled out the paperwork. § 87(2)(b) also testified that while at the precinct, § 87(2)(b) attempted to dissuade her from filing a complaint.

§ 87(2)(b) provided further details regarding this incident during a subsequent telephone conversation (enc. 9e) which took place on February 14, 2003. She further testified that after re-entering the living room and being questioned about the pocket books, she observed an officer pick up a pocketbook from the floor. The officer placed his hand in it and pulled out some sort of identification. However, she claimed to have no knowledge of the identification, where it came from or whom it belonged to. § 87(2)(b) also stated that she could not identify which officer searched her bag due to the fact that she was directing her attention to the officers that were questioning her.

Results of Investigation

Civilian Witness Statements

§ 87(2)(b)

§ 87(2)(b) was interviewed on October 29, 2002 at § 87(2)(b) in the Bronx (enc. 10). She stated that on September 14, 2002 she encountered several police officers when she entered her apartment, which she shares with her two siblings. When § 87(2)(b) asked to see a search warrant, the officers explained that they were in process of obtaining one. She observed the officers writing things down and looking around the living room. § 87(2)(b) testified that she asked the officers to wait in hallway because they had no right to be in the apartment in the first place, but they refused. They explained that they were trying to recover stolen property and that they could not leave. After about five minutes, § 87(2)(b) went down to the precinct to accompany her sister, § 87(2)(b). Though she did not enter the precinct her sister informed her that she had been allowed to visit with § 87(2)(b) who was in police custody at that time.

§ 87(2)(b)

§ 87(2)(b) was also interviewed on October 29, 2002 at § 87(2)(b) in the Bronx (enc. 11). He stated that on September 14, 2002 there were several police officers in the doorway and living room of his home when he arrived. § 87(2)(b) also demanded to know why the police were in his home. The officers only stated that they had been instructed to stay there and wait for a warrant. § 87(2)(b) observed two officers guarding two pocket books that were on the floor in the living room. Another short, stocky white officer, later determined to be LT Deentremont, was trying to obtain a search warrant and was making phone calls from his cellular phone. According to § 87(2)(b) the officers then told him not to touch anything in the apartment and stated that the items they were protecting could be evidence. The officers stayed in his home for about an hour. § 87(2)(b) added that the pocketbooks on the floor in the living room belonged to his sister, § 87(2)(b).

§ 87(2)(b)

§ 87(2)(b) was interviewed October 29, 2002 at § 87(2)(b) in the Bronx (enc. 12). § 87(2)(b) was arrested by officers from the 47th precinct in connection with a robbery in the area on September 13, 2002. He testified that during the processing of his arrest, he gave the arresting officer an address in Staten Island as his residence, but went on to clarify that he sometimes stays with his girlfriend, § 87(2)(b) who lives in § 87(2)(b) in the Bronx.

On September 14, 2002 at about 10:00 PM, § 87(2)(b) was taken out of the holding cell at the 47th precinct and placed in a small office where § 87(2)(b) was sitting at a desk and filling out paperwork. When § 87(2)(b) told him that she was planning make a compliant against officers from the 47th precinct, § 87(2)(b) asked her not to continue by stating "come on, don't do that". § 87(2)(b) stated that at the time, he was unaware that § 87(2)(b)'s apartment had been searched and advised § 87(2)(b) not to continue with the complaint because "it won't get me out of jail, and it isn't going to stop what's going on here".

Officer Statements

SGT Michael Fitzpatrick

SGT Michael Fitzpatrick of the 47th precinct was interviewed at the CCRB on October 11, 2002 (enc. 17). He testified that on September 13, 2002, he had been working with the special operations Lieutenant, Lt. James O'Sullivan. They were investigating a precinct- wide grand larceny pattern involving an individual who had been breaking into vehicles parked in a shopping center's parking lot and stealing purses and handbags that had been left inside. Later that evening, SGT Fitzpatrick and LT O'Sullivan went out on a canvass of the surrounding area with a female victim, who had observed the person who had stolen

her purse and claimed that she could positively identify him if she saw him again (**enc.**). Based on the victim's identification, § 87(2)(b) was subsequently arrested and brought back to the 47th precinct; he was turned over to DT Soto, who was in charge of the robbery investigation, processed and placed into custody.

The following day, on September 14, 2002, the detectives who were handling the case decided to go the home of § 87(2)(b) for further investigation. SGT Fitzpatrick accompanied SGT Campbell, DT Soto, LT O'Sullivan and LT Deentremont to § 87(2)(b) in § 87(2)(b). They knocked on the door of apartment § 87(2)(b) and a woman later determined to be § 87(2)(b) answered. SGT Fitzpatrick recalled SGT Campbell and DT Soto explaining that they wanted to discuss the whereabouts and identity of the person that they had just arrested § 87(2)(b) to § 87(2)(b). § 87(2)(b) then invited them into the apartment and led them into the living room. As soon as he entered the living room, SGT Fitzpatrick observed a pile of handbags sitting on broken car glass on the floor. He stated during this that observing the handbags was inevitable and estimated that there were more than 5 handbags on the floor. According to SGT Fitzpatrick, when DT Soto and SGT Campbell asked § 87(2)(b) about the handbags, she claimed that she did not know whom they belonged to or how they got there. § 87(2)(b) had been surprisingly cooperative up until the point she was questioned in regards to the handbags. Afterwards, she became very agitated and repeatedly asked them to leave. DT Soto and SGT Campbell went back to the precinct to obtain a search warrant with LT Deentremont, while SGT Fitzpatrick and LT Osullivan stayed in the apartment guarding the bags. SGT Fitzpatrick explained that they wanted to make sure no one cleaned up the apartment while the other officers were contacting the District Attorney's office. Then about an hour later, LT Deentremont returned to the apartment, advised them that they were unable to get a search warrant and ordered them to leave.

DT Miguel Soto

DT Soto of the 47th precinct detective squad was interviewed at the CCRB on October 21, 2002 (enc.14). On September 13, 2002, DT Soto processed the arrest of § 87(2)(b) which was made based on his identification by a victim who alleged that he stole her purse from her vehicle on August 21, 2002. Due to the fact that § 87(2)(b) listed § 87(2)(b) as his residence, DT Soto, SGT Campbell, SGT Fitzpatrick, LT Osullivan and LT Deentremont decided verify the information by going over to the apartment on September 14, 2002. DT Soto knocked on the door and when § 87(2)(b) answered, he identified himself as a detective. He stated that § 87(2)(b) agreed to let him and the other officers into the apartment as soon as he explained that they were there regarding § 87(2)(b). When DT Soto entered the living room, he immediately observed a pile of 6 or 7 handbags lying by a large garbage bag on the floor in the living room. Eventually he explained to § 87(2)(b) that § 87(2)(b) had been arrested earlier for robbery and SGT Campbell also questioned § 87(2)(b) about the pocketbooks on the floor. But, she replied that that she was not the owner of the pocketbooks and that she had no idea how they got there. DT Soto testified that § 87(2)(b)'s demeanor changed drastically after she was questioned. She became irate and asked them to leave several times. Then she stated that she wanted to make a complaint against them and asked for all of their names and badge numbers. Realizing that the bags could be evidence in connection with their investigation prompted both DT Soto and SGT Campbell to return to the precinct and speak with an Assistant District Attorney. According to DT Soto, when they were informed that they would not be able to obtain a warrant, SGT Campbell called the other supervisors and made them aware of the same.

SGT Kevin Campbell

At the time of the incident SGT Kevin Campbell was the supervising Sergeant with the 47th precinct detective squad; currently, he is assigned to the Deputy Commissioner of Operations command. SGT Campbell's CCRB interview took place on December 23, 2002 (enc. 13). He stated that after § 87(2)(b)'s arrest on September 13, 2002 in connection with an ongoing robbery pattern in the area, he and DT Soto interviewed the defendant in order to "enhance" the arrest. During the investigation SGT Campbell accessed the housing authority information line, and uncovered that apartment § 87(2)(b) was listed as the residence of an elderly woman. He assumed that the tenant of record would be able to offer more information on § 87(2)(b). In an attempt to verify the address information § 87(2)(b) gave

them (§ 87(2)(b) Bronx, New York) SGT Campbell and DT Soto, along with LT Osullivan, LT Deentremont and SGT Fitzpatrick walked over to § 87(2)(b). When he encountered § 87(2)(b) SGT Campbell asked if they could talk to her regarding their reason for being there. § 87(2)(b) said “yes” and let them into her apartment. SGT Campbell quickly walked towards the end of the apartment and inspected a bedroom to ensure no one else was present for safety reasons. When it was determined that the bedroom and hallway were secure, SGT Campbell reentered the living room and continued his conversation with § 87(2)(b). SGT Campbell maintains that as soon as he entered the living room, he noticed a pile of women’s handbags on the floor. Upon shining a flashlight on the pile, small pieces of what appeared to be car glass became visible. SGT Campbell instantly determined that these were the possible proceeds of the robberies they were investigating. He then questioned § 87(2)(b) about the pocketbooks, but she offered no explanation as to who the bags belonged to and denied having knowledge of how the bags got there. SGT Campbell and DT Soto determined that a search warrant was needed to continue with the investigation. They returned to the precinct and spoke to an Assistant District Attorney who was present due to a homicide arrest that had taken place earlier that day. After presenting the facts of the case, the Assistant District attorney advised that he was unsure if a judge would “sign off” on a search warrant. Once it was determined that they would not be applying for a warrant at that time, SGT Campbell called LT. Deentremont with the news. SGT Campbell provided § 87(2)(b) with the appropriate form and telephone number to the CCRB, and allowed her to visit with § 87(2)(b) for a few minutes while she filled out the form.

SGT Campbell was re-interviewed at the CCRB on April 9, 2003 (enc. 13c-d). He further testified that of the many pocketbooks that were on the floor, several were open and that upon shining a flashlight on the bags, an officer did observe a Connecticut license inside one of them and picked it up. SGT Campbell was unable to recall the identity of the officer who found the license. SGT Campbell also stated that he confronted § 87(2)(b) about the identification and asked about her relationship to the owner of that license. She denied knowing anything about the bags and stated that they were not hers, before asking all of the officers to leave her apartment. When questioned about the inspection he conducted prior to the discovery of the handbags, SGT Campbell testified that though it is possible that another officer followed him down the hallway, he was the only one to actually open the bedroom doors, poke his head inside and quickly glance around. In his estimation this visual inspection took no more than a few seconds. He added that he was sure to explain to § 87(2)(b) that the inspection had been conducted not only for their safety, but for hers as well.

LT James O’Sullivan

LT James O’Sullivan of the 47th precinct was interviewed at the CCRB on November 12, 2002 (enc. 16). He was the special operations Lieutenant who along with SGT Fitzpatrick, picked up § 87(2)(b) during a canvass on September 13, 2003. On the date of the incident he accompanied the officers to § 87(2)(b)’s apartment. LT. O’Sullivan corroborates the other officer’s accounts regarding § 87(2)(b) consenting to their entry of her apartment and testified that he observed more than 10 handbags sitting in a pile on the living room floor, which he described as being immediately after the entrance doorway. He also used his flashlight to illuminate the pile of handbags and also recalls seeing pieces of glass around the bags. LT Osullivan stated that the glass became visible after § 87(2)(b) tried to shove the bags aside. He recalled that § 87(2)(b) adamantly denied knowing anything about the bags and also claimed that § 87(2)(b) did not live there. SGT Osullivan corroborated SGT Campbell and DT Soto’s testimony in regards to their attempt to obtain a search warrant.

LT Paul Deentremont

LT Paul Deentremont of the 47th precinct was interviewed at the CCRB on December 18, 2002 (enc. 15). On September 14, 2002 he accompanied LT Osullivan, SGT Fitzpatrick, SGT Campbell and DT Soto to apartment § 87(2)(b) in § 87(2)(b). According to LT Deentremont, § 87(2)(b) allowed them to enter her apartment and led them straight into the living room. A huge pile of women’s handbags became immediately apparent as soon as they entered the living room. However, it was only when his flashlight illuminated the bags that tiny pieces of glass became visible. According to LT Deentremont, SGT Campbell then spoke to § 87(2)(b) about the robberies they believed § 87(2)(b)

had committed and went on to question her about the bags found in her home. LT Deentremont maintained that he did not go near the handbags and never left the living room of the apartment.

Police Records

UF- 61 Complaint Report and On-Line Booking Sheet

On August 21, 2002 § 87(2)(b) of § 87(2)(b) reported that an unknown perpetrator had broken into her parked vehicle and stolen her pocket book, which included \$80 dollars and her driver's license (enc.18).

On September 13, 2002 § 87(2)(b) was arrested and charged with § 87(2)(b) (enc.22a),

Memo Books

SGT Fitzpatrick was the only officer who made memo book entries in relation to this incident (enc. 17a-b). On September 13, 2002, he recorded that he went on patrol with a complainant at 8:00 PM. The next entry logs the arrest of a Black male in front of a Blockbuster store on "233rd Street and Baychester Avenue" in the Bronx. He entered that the person arrested was "identified by complainant".

Efforts to locate witnesses

Several efforts were made to contact the complainant that filed the UF 61 in connection with this case, but none proved to be successful. The phone number § 87(2)(b) listed on the complaint report was a non-working number and the Cole's address and telephone directory does not list a phone number for § 87(2)(b) in the Bronx. The White Pages.com on line directory reflected a different address and telephone number for § 87(2)(b). Two calls were placed to her home, however to date none have been returned.

Field Work

On October 29, 2002 the investigator, accompanied by Investigator Yazmine Sanchez visited apartment § 87(2)(b) of § 87(2)(b) in the Bronx. Aside from taking § 87(2)(b) and § 87(2)(b)'s statements, § 87(2)(b) who had recently been released from Riker's Island also, appeared at the apartment and his statement was taken as well. It was observed that the distance between the doorway and the living room entrance is approximately 3 feet. § 87(2)(b)'s apartment was in shambles as a single mattress lay in center of the living room surrounded by garbage bags, old toys and bicycle parts. Black garbage bags lined the windows of the apartment causing darkness to overcome most of the rooms. To the left of the mattress is the frame of a sofa. While there, the investigators also observed an unusual amount of unknown persons walking in and out of the apartment.

Criminal History of Civilian Witnesses

§ 87(2)(b)

According to a search of the Booking Arraignment and Disposition System (BADs), § 87(2)(b) has never been convicted of a crime.

§ 87(2)(b)

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Police Officer CCRB Histories

None of the officers named in this complaint have any substantiated CCRB cases in their history (enc. 4 and 5).

Conclusions and Recommendations

Identification of Subject Officers

§ 87(2)(b) recorded the names of all of the officers that were present in her home on the date of incident and interviews with all of the officers present in her apartment confirmed their involvement in this complaint. § 87(2)(g)

§ 87(2)(b) SGT Campbell also admitted he conducted search during his CCRB interview.

Undisputed Facts

It is undisputed that LT. Osullivan, LT. Deentremont, SGT Campbell, DT Soto and SGT Fitzpatrick entered the home of § 87(2)(b) on September 14, 2002 with her consent. While there, SGT Campbell conducted a sweep of the rear of the apartment and an unknown officer searched one of the pocketbooks found in § 87(2)(b)'s living room.

Credibility

§ 87(2)(f)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegations A and B - LT Osullivan and LT Deentremont authorized the entry of apartment § 87(2)(b) in § 87(2)(b) in the Bronx.

§ 87(2)(b) maintains that she encountered LT Osullivan, LT Deentremont, SGT Campbell, DT Soto and SGT Fitzpatrick when she answered her door, and that after a short conversation concerning her boyfriend, § 87(2)(b) she agreed to let the officers into her home for further discussion. § 87(2)(g)

[REDACTED]

Allegation C - SGT Campbell searched apartment § 87(2)(b) in § 87(2)(b) in the Bronx

§ 87(2)(g)

Though § 87(2)(b) claimed that two officers walked down the hallway, only SGT Campbell admitted to conducting this search, which entailed a visual inspection of the bedrooms located at the rear of § 87(2)(b)'s apartment. § 87(2)(g)

“protective security sweep” as outlined in Kamin’s New York Search and Seizure (enc.3). This type of quick and limited search has also been upheld by the Supreme Court, in cases such as Maryland v. Buie (enc.2). SGT Campbell also testified that the nature of this inspection was purely precautionary, and that it was undertaken as a measure to ensure the safety of the other officers who were present in the apartment. § 87(2)(g)

§ 87(2)(g)

presence of a reasonable and articulable belief “that the area being swept harbors an individual who may pose a danger to the police (enc.3)”. § 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED] Kamin's New York Search and Seizure indicates that security sweeps are invalid if the motivation behind the search is an attempt to uncover evidence (enc. 3). Specifically, the scope of the sweep may be "no broader than to protect the police officer from the perceived danger." (enc.3). § 87(2)(g)

[REDACTED]

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation D – An officer searched § 87(2)(b)'s property.

§ 87(2)(b) also alleged that during the incident an officer searched through on of the pocketbooks without her consent and without the authority of a warrant. § 87(2)(g)

[REDACTED]

[REDACTED]

§ 87(2)(g)

[REDACTED]

[REDACTED] In this case, each officer, LT Osullivan, LT Deentreemont, SGT Fitzpatrick, SGT Campbell and DT Soto, immediately observed the pocketbooks upon entering the living room of § 87(2)(b)'s home. A substantial pile of women's handbags, which were different colors, shapes and sizes, found in the apartment of a suspect in a pattern of handbag robberies, led the officers to determine that they had stumbled upon what could have been evidence in connection with these crimes. In addition, after illuminating the pocketbooks with a flashlight, small pieces of glass became visible. § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED] According to the plain view doctrine, as outlined in Kamin's New York Search and Seizure, items may be seized by the police only if it is "immediately apparent to the officer that the items are the evidence of a crime"(enc.3). § 87(2)(g)

[REDACTED]

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: